

# SUPREME COURT OF ARKANSAS

No. CR09-402

JERRY SYKES,

APPELLANT,

VS.

STATE OF ARKANSAS,

APPELLEE,

**Opinion Delivered May 7, 2009**

APPEAL FROM THE WASHINGTON  
COUNTY CIRCUIT COURT,  
NO. CR 07-2162-1,  
HON. WILLIAM A. STOREY, JUDGE,

MOTION TO WITHDRAW  
GRANTED.

---

## PER CURIAM

Shane Kerr, a full-time, state-salaried public defender for the Fourth Judicial District, Washington and Madison Counties, Arkansas, was appointed by the trial court to represent appellant, Jerry Sykes, an indigent defendant. Following a trial held on October 15 and 16, 2008, Sykes was found guilty and sentenced to life in the Arkansas Department of Correction without the possibility of parole on the charge of capital murder, twenty years in the Arkansas Department of Correction on the charge of kidnapping, a fine of \$10,000.00 on the charge of robbery, and a fine of \$8,000.00 on the charge of theft of property. A notice of appeal was timely filed and the record has been lodged in this court.

Mr. Kerr now asks to be relieved as counsel for appellant in this criminal appeal based on the case of *Rushing v. State*, 340 Ark. 84, 8 S.W.3d 489 (2000) (holding that full-time, state-salaried public defenders were ineligible for compensation for their work on appeal), and

*Tester v. State*, 341 Ark. 281, 16 S.W.3d 227 (2000) (per curiam) (relieving appellant's court-appointed public defender and appointing new counsel on appeal).

Since the time of those decisions, however, the law was changed by the General Assembly. Act 1370 of 2001 provided in part: "Persons employed as full-time public defenders who are not provided a state-funded secretary, may also seek compensation for appellate work from the Arkansas Supreme Court or the Arkansas Court of Appeals." That provision is now codified at Ark. Code Ann. § 19-4-1604(b)(2)(B) (Repl. 2007).

Mr. Kerr's motion states that he is provided with a full-time, state-funded secretary per Ark. Code Ann. § 19-4-1604(b)(2)(B) (Repl. 2007). Accordingly, we grant his motion to withdraw as attorney. Ms. Sharon Kiel will be substituted as attorney for appellant in this matter. The clerk will establish a new briefing schedule.